

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA**

**v.**

**Civil No. 1:16-cv-203-HSO  
Criminal No. 1:14cr77-HSO-RHW-3**

**KERMIT BLACKSTON**

**ORDER DENYING 28 U.S.C. § 2255  
MOTION WITHOUT PREJUDICE**

BEFORE THE COURT is the Motion [249] of Defendant Kermit Blackston to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255. For the reasons that follow, the Court will deny Defendant's Motion [249] without prejudice with leave to reassert.

Rule 2 of the Rules Governing Section 2255 Proceedings for the United States District Courts ("§ 2255 Rules") reads, in relevant part, as follows:

- (a) Applying for Relief. The application must be in the form of a motion to vacate, set aside, or correct the sentence.
- (b) Form. The motion must:
  - (1) specify all the grounds for relief available to the moving party;
  - (2) state the facts supporting each ground;
  - (3) state the relief requested;
  - (4) be printed, typewritten, or legibly handwritten; and
  - (5) be signed under penalty of perjury by the movant or by a person authorized to sign it for the movant.
- (c) Standard Form. The motion must substantially follow either the form appended to these rules or a form prescribed by a local district-court rule. The clerk must make forms available to moving parties without charge.

Rule 2(a)-(c) of § 2255 Rules.

Defendant's Motion does not conform to the requirements of Rule 2(b) in that it is not in substantially the form annexed to the rules, and it was not signed under penalty of perjury. The Court will therefore deny Defendant's Motion without prejudice, with leave to reassert in the form and manner prescribed by the §2255 Rules.

**Defendant is warned that any § 2255 Motion must conform to the requirements of the § 2255 Rules, shall contain all grounds for relief which he asserts,<sup>1</sup> and must be timely filed within the time remaining for filing such a motion. See 28 U.S.C. § 2255(f)(1).**

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that, for the reasons stated more fully herein, the Motion [249] of Defendant Kermit Blackston to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255 is **DENIED WITHOUT PREJUDICE**.

**IT IS, FURTHER, ORDERED AND ADJUDGED** that, for the reasons stated more fully herein, Defendant shall file any reasserted Motion in the form and manner prescribed by the Rules Governing Section 2255 Proceedings for the United States District Courts within the time limit for filing such a motion.

**IT IS, FURTHER, ORDERED AND ADJUDGED** that, the Clerk of Court is directed to mail Defendant a copy of this Order to his last known address, and to

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<sup>1</sup> Defendant shall raise all of his asserted grounds in any refiled § 2255 Motion, as a subsequent § 2255 motion would be subject to the restrictions for second or successive motions.

simultaneously furnish Defendant with the appropriate forms for filing a Motion pursuant to 28 U.S.C. § 2255.

**SO ORDERED AND ADJUDGED**, this the 15<sup>th</sup> day of June, 2016.

*s/ Halil Suleyman Ozerden*

HALIL SULEYMAN OZERDEN  
UNITED STATES DISTRICT JUDGE